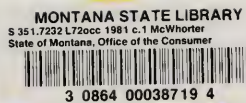


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STATE OF MONTANA
OFFICE OF THE CONSUMER COUNSEL
FINANCIAL REPORT
Fiscal Year Ended June 30, 1981

Office of the Legislative Auditor

STATE CAPITOL
HELENA, MONTANA 59601
406/449-3122



JAMES H. GILLETT, C.P.A.
ACTING LEGISLATIVE AUDITOR

September 1981

JOHN W. NORTHEY
LEGISLATIVE COUNSEL

The Legislative Audit Committee
of the Montana State Legislature:

Transmitted herewith is the report on the audit of the Consumer
Counsel for the year ended June 30, 1981.

The audit was conducted by Hugh McWhorter, CPA, under a contract
between the firm and our office. The comments and recommendations
contained in this report represent the views of the firm and not
necessarily the Legislative Auditor.

The agency's written response to the report recommendations is
included in the back of the audit report.

Respectfully submitted,

A handwritten signature in cursive script that reads "James H. Gillett".

James H. Gillett, CPA
Acting Legislative Auditor

STATE OF MONTANA
OFFICE OF THE CONSUMER COUNSEL

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OFFICIALS

LEGISLATIVE CONSUMER COMMITTEE

Senator Allen Kolstad, Chairman

Representative Joe Quilici

Senator Paul Boylan

Representative Earl Lory

CONSUMER COUNSEL

James C. Paine

OFFICE OF THE CONSUMER COUNSEL

Summary of Recommendations and Responses

Recommendation:

Assess payroll taxes and withhold Federal and State taxes on Legislator "salaries" received pursuant to M.C.A. 5-2-302.

Response:

Agency will comply with any decision The Legislature and The Department of Administration renders.

Recommendation:

Consumer Counsel expense and time reports should be approved by someone other than Consumer Counsel.

Response:

Concur.

Recommendation:

Execute an agreement with consultant currently receiving a monthly retainer.

Response:

Concur. A new agreement has been executed.

HUGH A. McWHORTER
CERTIFIED PUBLIC ACCOUNTANT
2103 GOLD RUSH AVE.
HELENA, MONTANA 59601

AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS
MONTANA SOCIETY OF CERTIFIED PUBLIC ACCOUNTANTS

PHONE 406-443-1461

Legislative Audit Committee
State Capitol
Helena, Montana

I have examined the General Fund and the General Fixed Asset Group of Accounts of the Office of The Consumer Counsel for the fiscal year ended June 30, 1981. My examination was made in accordance with generally accepted auditing standards and accordingly included such tests of the accounting records and such other auditing procedures as I considered necessary in the circumstances.

In my opinion, the accompanying financial statements present fairly the financial position of the General Fund and the General Fixed Asset Group of Accounts of the Office of The Consumer Counsel as of June 30, 1981, and the results of operations of the General Fund for the year then ended, in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceeding year.

My examination was made for the purpose of forming an opinion on the basic financial statements taken as a whole. The supplementary information appearing on page 9 and the column on the accompanying balance sheet captioned "Total - Memorandum Only" are presented for purposes of additional analysis and are not a required part of the basic financial statements. Such information has been subjected to the auditing procedures applied in the examination of the basic financial statements and, in my opinion, is fairly stated in all material respects in relation to the basic financial statements taken as a whole.

Hugh A. McWhorter

October 9, 1981
Helena, Montana

OFFICE OF THE CONSUMER COUNSEL

Combined Balance Sheet

June 30, 1981

	General Fund	General Fixed Assets-Group of Accounts	Totals (Memorandum Only)
<u>ASSETS</u>			
Cash on Hand	\$ 438	\$ --	\$ 438
Cash in Treasury	\$158,224	\$ --	\$158,224
Equipment	\$ --	\$9,862	\$ 9,862
	<u>\$158,662</u>	<u>\$9,862</u>	<u>\$168,524</u>
<u>LIABILITIES, RESERVES, AND FUND BALANCE</u>			
Accounts Payable	\$ 15,693	\$ --	\$ 15,693
Accrued Support Expenditures	\$ 27,222	\$ --	\$ 27,222
Reserve for Investment in General Fixed Assets	\$ --	\$9,862	\$ 9,862
Fund Balance	<u>\$115,747</u>	<u>\$ --</u>	<u>\$115,747</u>
	<u>\$158,662</u>	<u>\$9,862</u>	<u>\$168,524</u>

The notes to the financial statements are an integral part of this statement.

OFFICE OF THE CONSUMER COUNSEL

Statement of Revenue, Expenditures and
Changes In Fund Balance

Fiscal Year Ended June 30, 1981

	General Fund		
	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Revenue:			
Department of Revenue Regulated Company Assessments	\$460,361	\$396,997	\$(63,364)
Expenditures:	<u>\$460,361</u>	<u>\$426,163</u>	<u>\$ 34,198</u>
Excess of Current Expenditures Over Current Revenues	<u>\$ --</u>	<u>\$(29,166)</u>	<u>\$(29,166)</u>
Other Financing Sources (Uses):			
Prior Year Expenditure Adjustments	<u>\$ --</u>	<u>\$(17,253)</u>	<u>\$(17,253)</u>
Excess of Revenues and Other Sources Over (Under) Expenditures and Other Uses	<u>\$ --</u>	<u>\$(46,419)</u>	<u>\$(46,419)</u>
Fund Balance, July 1, 1980		<u>\$162,166</u>	<u>\$162,166</u>
Fund Balance, June 30, 1981		<u>\$115,747</u>	<u>\$115,747</u>

The Notes to Financial Statements are an integral part of this statement.

OFFICE OF THE CONSUMER COUNSEL

Notes To Financial Statements

Fiscal Year Ended June 30, 1981

(1) General Information and Summary Of Significant Accounting Policies.

Purpose Of The Counsel

Pursuant to the Montana Constitution adopted in 1972, Article XIII, Section 2,

"The Legislature shall provide for an Office of Consumer Counsel which shall have the duty of representing consumer interests in hearings before the Public Service Commission or any successor agency. The Legislature shall provide for the funding of the Office of the Consumer Counsel by a special tax on the net income or gross revenues of regulated companies."

Title 5, Chapter 15, of the M.C.A. provides for a Legislative Consumer Committee consisting of two members of the Senate and two members of the House of Representatives. The Committee is bipartisan in that no more than one appointee of each house may be members of the same political party. This committee appoints a consumer counsel for the State of Montana and the financial statements for the fiscal year ended June 30, 1981, reflect the financial activities of that entity.

Basis of Accounting

The financial statements of the Montana Consumer Counsel are prepared utilizing the modified accrual basis of accounting. Under this method of accounting, expenditures are recorded when the related liability is incurred and revenues are recorded when received in cash unless susceptible to accrual. Revenues are susceptible to accrual when they are measurable and available to finance expenditures. Under this method of accounting, general fixed assets are recorded as expenditures in The Counsel's General Fund at the time of purchase and subsequently capitalized in the General Fixed Asset Group of Accounts. This basis of accounting further provides that employees' vested fringe benefits (vacation and sick leave) are recognized in the accounts at the time of expenditure rather than when such amounts vest. Accordingly, the accompanying financial statements do not reflect a liability for employee vested vacation and sick leave.

(2) Employee Retirement System.

Employees are covered by the Public Employee's Retirement System (PERS). PERS is a contributory plan under which The Counsel contributes 6.2 percent of employee's gross wages and the employee contributes 6 percent of his gross wages. During the fiscal year, The Counsel incurred pension costs of \$5,835.

The State's policy is to fund accrued pension costs. It is impractical to separately disclose actuarial information for The Counsel.

(3) Budget Information.

As disclosed in Note 1 of Notes to Financial Statements, The Counsel's funding is derived from special assessments on regulated companies. Such assessments by the State's Department of Revenue for fiscal year 1981 are reflected in The Counsel's Statement of Revenue, Expenditures and Changes In Fund Balance. Authority to expend such amounts is granted by The Legislature. To the extent that Counsel expenditures do not reach spending authority limitations, such amounts revert to the Department of Revenue for use in future funding of the Counsel's operations.

(4) Changes In General Fixed Assets.

During fiscal year 1981 the Office of the Consumer Counsel capitalized \$1,641 of payments on their IBM Memory 100 typewriter with the resulting effect that all fixed assets of The Counsel are now recorded at cost. The addition of this amount (\$1,641) brought the balance in the General Fixed Assets Group of Accounts to its year end amount of \$9,862.

(5) Prior Year Expenditure Adjustments.

Prior year expenditure adjustments represent, for the most part, a settlement reached with a Montana regulated Company. Such Company successfully litigated the fact that tax assessments for a given year exceeded the appropriation for the Office of The Counsel as defined in the Montana Code and accordingly the Company was entitled to a refund.

Supplementary Data

OFFICE OF THE CONSUMER CONSEL
Supplemental Schedule of Expenditures
Year Ended June 30, 1981

EXPENDITURES

Personal Services:

Salaries	\$ 94,042
Committee Members' Compensation	932
Employee Benefits	<u>15,780</u>

Total Personal Services	\$110,754
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Operating Expenses:

Contracted Services	\$293,748
Supplies and Materials	946
Communications	4,169
Travel	8,913
Rent	4,004
Repairs and Maintenance	420
Other Expenses	<u>1,703</u>

Total Operating Expenses	313,903
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Equipment:

Office Equipment	<u>1,506</u>
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Total Expenditures	<u>\$426,163</u>
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HUGH A. McWHORTER
CERTIFIED PUBLIC ACCOUNTANT
2103 GOLD RUSH AVE.
HELENA, MONTANA 59601

AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS
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PHONE 406/443-1461

Legislative Audit Committee
State Capitol
Helena, Montana

I have examined the financial statements of The Office of The Consumer Counsel for the year ended June 30, 1981 and have issued my opinion thereon dated October 9, 1981. As part of my examination I made a study and evaluation of the Agency's system of internal accounting control to the extent I considered necessary to evaluate the system as required by generally accepted auditing standards. The purpose of my study and evaluation was to determine the nature, timing, and extent of the auditing procedures necessary for expressing an opinion on the agency's financial statements. My study and evaluation were more limited than would be necessary to express an opinion on the system of internal accounting control taken as a whole.

The management of The Office of The Consumer Counsel is responsible for establishing and maintaining a system of internal accounting control. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of control procedures. The objectives of a system of internal accounting control are safeguarded against loss from unauthorized use or disposition, and that transactions are executed in accordance with management's authorization and recorded properly to permit the preparation of financial statements in accordance with generally accepted accounting principles.

Because of inherent limitations in any system of internal accounting control, errors or irregularities may nevertheless occur and not be detected. Also, projection of any evaluation of the system to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or that the degree of compliance with the procedures may deteriorate.

My study and evaluation made for the limited purpose described in the first paragraph would not necessarily disclose all material weaknesses in the system. Accordingly, I do not express an opinion on the system of internal accounting control of The Office of The Consumer Counsel taken as a whole. However, my study and evaluation disclosed the following conditions that I believe result in more than a relatively low risk that errors or irregularities in amounts that would be material in relation to the financial statements of The Office of The Consumer Counsel may occur and not be detected within a timely period.

Legislative Consumer Committee Compensation.

In accordance with the provisions of M.C.A. 5-2-302, Legislators who serve on The Legislative Consumer Committee are currently paid a "salary" during the time the Committee conducts authorized Committee business while the Legislature is not in session. As a salary, this compensation should be subject to Federal and State income tax withholdings, F.I.C.A. and Workers Compensation assessments. Currently, taxes are not being withheld from this compensation, nor are payroll tax assessments being paid. Of particular concern would be the State's financial exposure, if any, to the possibility of injury to a Committee member while on Committee business.

I recommend that this compensation be treated the same as compensation received by Legislators while the Legislature is in session. As such, all applicable taxes would be withheld and payroll assessments made. Concurrent with this change, it would seem appropriate for someone to assess the State's liability, if any, for previously unpaid F.I.C.A. and Workmen's Compensation assessments.

It is my understanding that this observation has relevance to compensation paid to members of Committees other than the Legislative Consumer Committee.

This condition was considered in determining the nature, timing, and extent of the audit tests applied in my examination of the 1981 financial statements, and this report does not affect my report on these financial statements dated October 9, 1981.

In addition to the above comment, other matters came to my attention during the course of my examination. These comments are set forth in the paragraphs which follow.

Montana Consumer Counsel Expense and Time Reports.

The Montana Consumer Counsel currently approves his own expense and time reports. Although the expenses so approved were immaterial in amount in fiscal year 1981, they may not always be immaterial. Although this procedure can be construed to be in accordance with A.R.M., good

business practice dictates and I recommend that expenditures as well as time sheets be approved by someone other than the preparer. Perhaps someone on the Legislative Consumer Committee could be designated to serve in this capacity. As a practical matter approvals could be made on an after the fact basis. Had such a procedure been in effect, perhaps a March 6, 1981, Montana Consumer Counsel accommodation expenditure which exceeded permissible charges by \$57.39 would have been promptly detected.

Consultant Contract.

The Office of The Consumer Counsel currently pays a utility consultant a retainer of \$340 per month. At present there is no contract in existence which specifies the agreements of the parties. I recommend that the terms of this agreement be reduced to writing.

Prior Audit Findings.

An examination of the financial statements of The Consumer Counsel was conducted as of June 30, 1979. In that report several instances were cited where errors were detected in the recording of transactions. No similar errors were detected during the 1981 examination.

I appreciate the courtesies extended to me by The Consumer Counsel and his staff during the course of my examination.

Ray A. Whitman

October 9, 1981
Helena, Montana



MONTANA CONSUMER COUNSEL

34 W. SIXTH AVENUE
HELENA, MONTANA 59601

October 20, 1981

Legislative Audit Committee
State Capitol
Helena, MT 59620

Re: Response to Mr. McWhorter's Audit - Preliminary Draft
Report - of Montana Consumer Counsel

The office of the Montana Consumer Counsel makes the following points in response to Mr. McWhorter's preliminary draft comments made subsequent to his performance of an audit on this office.

Re: Legislative Consumer Committee Compensation

I have been in contact with other administrative officials and all perceive this to be a widespread problem which necessitates a quick decision. This office will comply with any decision the Legislature and the Department of Administration renders on whether legislator's compensation should or should not be classified as salary.

Re: Montana Consumer Counsel Travel Claims and Time Reports

We will attempt to have someone, probably a Legislative Consumer Committee member, sign the Consumer Counsel's expense and time sheets. This item will be addressed at the next scheduled meeting of the Committee.

Re: Consultant Contract

When Mr. William Johnson was in ill health, he cancelled the previous contract with our office. We have entered into a new agreement and it is on file at our office.

Very truly yours,

James C. Paine
Montana Consumer Counsel

